

Reclamation Manual

Policy

Subject:	Environmental Mitigation
Purpose:	To affirm the Bureau of Reclamation's responsibility for effective mitigation, define environmental mitigation activities, and establish how environmental mitigation is to be tracked. The benefit of this Policy is improved management of Reclamation's environmental mitigation commitments and improved tracking of environmental mitigation implementation, cost, and effectiveness.
Authority:	Fish and Wildlife Coordination Act (FWCA) (Pub. L. 85-624 as amended; 16 U.S.C. 661 et seq.); National Historic Preservation Act (NHPA) (Pub. L. 89-665 as amended; 16 U.S.C. 470 et seq.); National Environmental Policy Act of 1969 (NEPA) (Pub. L. 91-190; 42 U.S.C. 470 et seq.); Clean Water Act (CWA) (Pub. L. 92-500 as amended; 33 U.S.C. 661 et seq.); Endangered Species Act of 1973 (ESA) (Pub. L. 93-205 as amended; 16 U.S.C. 1531 et seq.)
Approving Official:	Commissioner
Contact:	Director, Policy and Administration; Water and Environmental Resources Office, 84-55000

1. **Introduction.** Reclamation is subject to various laws which require consideration of environmental mitigation, decisions concerning environmental mitigation, and implementation of environmental mitigation to support Reclamation's mission.
2. **Applicability.** This Policy applies to all Reclamation offices with ongoing or new Reclamation environmental mitigation commitments, even if carried out by someone other than Reclamation.
3. **Definitions.**
 - A. **Appropriate Environmental Mitigation.** Environmental mitigation determined by Reclamation to be effective, in compliance with applicable law and regulation, and within Reclamation's authority.
 - B. **Biological Opinion.** A report to Reclamation from the Fish and Wildlife Service and/or National Marine Fisheries Service, under the authority of the ESA, which provides:
 - (1) an opinion as to whether a proposed action will jeopardize the continued existence of a listed species or adversely modify or destroy designated critical habitat;

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- (2) reasonable and prudent alternatives, if any, to the proposed action which will avoid jeopardizing the continued existence of a listed species or adversely modifying or destroying critical habitat;
- (3) a statement of the amount of incidental take of listed species allowed while still avoiding jeopardy;
- (4) reasonable and prudent measures which Reclamation must take to minimize the amount of take; and
- (5) conservation recommendations, which are discretionary actions Reclamation may implement, that may further reduce adverse effects.

C. **CWA Permits.** Permits issued under the authority of the CWA, which:

- (1) determine compliance with water quality standards as established under state or Tribal regulations (401 water quality certification);
- (2) define and permit allowable point source discharges (section 402 permits); or
- (3) define and permit allowable placement of dredged or fill material in waters of the United States (section 404 permits).

D. **Environmental Mitigation.** Actions taken to minimize, rectify, or compensate for adverse impacts to environmental, natural, historic, and/or cultural resources.

E. **Finding of No Significant Impact (FONSI).** A determination made by Reclamation, which briefly presents the reasons why a proposed action will not have a significant effect on the human environment, and therefore, an Environmental Impact Statement will not be prepared.

F. **FWCA Report.** A document issued by the Fish and Wildlife Service under the authority of the FWCA that proposes environmental mitigation actions to address a proposed action's effects upon fish and wildlife resources. Depending upon the scope of the proposed action, this report may be in the form of a simple memorandum or letter.

G. **Memorandum of Agreement (MOA) or Programmatic Agreement.** Formal documentation of Reclamation's commitments to address the adverse effects of an undertaking on historic properties pursuant to section 106 of the NHPA or to address management needs defined pursuant to section 110 of the Act.

H. **Record of Decision (ROD).** A formal document, prepared by Reclamation, completing the Environmental Impact Statement process under NEPA. It defines the

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action to be taken and those environmental mitigation actions Reclamation is committed to perform as well as any necessary monitoring of those mitigation actions (40 CFR 10505.2(c)).

- I. **Resource Management Plan.** The document which defines land management at Reclamation facilities.

4. **Responsibilities.**

- A. The Commissioner is responsible for the Reclamation-wide implementation of this Policy.
- B. The regional directors are responsible for implementation of this Policy within their regions.
- C. Area office managers are responsible for the implementation of this Policy within their areas.
- D. The Director, Policy and Administration, is responsible for periodic consolidation of Reclamation-wide environmental mitigation data and for providing guidance on the implementation of this Policy.

5. **Policy.**

- A. Reclamation will implement and assure completion of all appropriate environmental mitigation requirements and commitments included in:
 - (1) CWA permits, issued under the authority of the CWA section 401, 402, or 404;
 - (2) a FONSI or ROD;
 - (3) accepted biological opinions, resulting from the consultation requirements of the ESA;
 - (4) accepted recommendations from the FWCA Report, generally documented in a ROD or FONSI;
 - (5) accepted mitigation included in either a MOA or Programmatic Agreement, generally documented in a ROD or FONSI;
 - (6) the description of the selected action;
 - (7) a Resource Management Plan; or
 - (8) any other environmental mitigation compliance requirement.

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- B. Each Reclamation office with ongoing or new environmental mitigation commitments will maintain sufficient information to demonstrate that environmental mitigation commitments are:
 - (1) appropriately funded during the normal budget cycle;
 - (2) periodically monitored for effectiveness;
 - (3) revised as practicable when found to be ineffective;
 - (4) accurately documented; and
 - (5) completed in a timely manner.
- C. The status of mitigation funding, effectiveness, and completion will be collected in a consistent format, as defined by Policy and Administration, for Reclamation-wide tracking of mitigation performance, budget, and accomplishments.